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RUEHLO/AMEMBASSY LONDON PRIORITY 3219
RUEHNE/AMEMBASSY NEW DELHI PRIORITY 0018
RUEHNY/AMEMBASSY OSLO PRIORITY 3310
RUEHOT/AMEMBASSY OTTAWA PRIORITY 0913
RUEHTC/AMEMBASSY THE HAGUE PRIORITY 0251
RUEHKO/AMEMBASSY TOKYO PRIORITY 2389
RUEHCG/AMCONSUL CHENNAI PRIORITY 6928
RUEHBI/AMCONSUL MUMBAI PRIORITY 4770
RUEHON/AMCONSUL TORONTO PRIORITY 0049
RUEHBS/USEU BRUSSELS PRIORITY
RUEKDIA/DIA WASHDC PRIORITY
RUEHGV/USMISSION GENEVA PRIORITY 1391
RUCNDT/USMISSION USUN NEW YORK PRIORITY 0434
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C O N F I D E N T I A L SECTION 01 OF 04 COLOMBO 001619

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SUBJECT: AIDE MEMOIRE CONCERNING THE PROPOSED MANDATE OF
THE INTERNATIONAL INDEPENDENT GROUP OF EMINENT PERSONS
(IIGEP)

Classified By: Ambassador Robert O. Blake Jr., for reasons 1.4 (b) and (d).

11. (SBU) The Ministry of Foreign Affairs sent Ambassador an "aide-memoire" laying out the mandate for an International Independent Group of Eminent Persons (IIGEP). This body is to monitor the work of the Commission of Inquiry the Government will task with investigating a series of serious human rights violations. Text of the aide memoire appears below. The aide-memoire asks that the USG furnish the name of its proposed observer no later than October 9.

12. (C) COMMENT: We have not yet seen the Terms of Reference (TOR) for the Commission itself, which the President will establish through a "Letter of Invitation." In a meeting with DCM and Poloffs on October 2, UN Special Advisor for Human rights Rory Mungoven (protect) told us that the government is still working on the TOR. Based on reports he had heard, Mungoven was concerned that the mandate of the Commission of Inquiry may be inadequate to perform its mission credibly. He thought that in that case, the UN High Commissioner for Human Rights would probably not want to endorse the Commission. (Note: we have made clear to GSL officials that the TORs for the Commission must be sufficiently robust to produce a credible investigation and follow-up. End note.)

13. (C) Action Request: Embassy asks that the Department advise whether it can provide a U.S. nomination to the IIGEP by the October 9 deadline. Embassy will consult the EU and other countries who have been asked to provide monitors to see who they are thinking of. We will also clarify with the GSL the exact role and time they envision the monitors will spend on the ground. Further, Embassy has reviewed the text and believes that para g) could be strengthened to read as follows: "to recommend measures that should be taken by the Government of Sri Lanka to strengthen Sri Lankan institutions

in order to prevent and investigate future such incidents." Embassy welcomes Department comments on the text before we convey our views back to the Government of Sri Lanka.

¶4. (SBU) BEGIN TEXT OF DOCUMENT (note internal paragraph numbering)

AIDE MEMOIRE CONCERNING THE PROPOSED MANDATE OF THE INTERNATIONAL INDEPENDENT GROUP OF EMINENT PERSONS (IIGEP)

¶1. H.E. the President has decided to appoint by Warrant, a Commission of Inquiry under the Commissions of Inquiry Act, to investigate and inquire into several incidents to be specified in a schedule to the Warrant, attached hereto, which involves allegations of serious human rights violations occurring in Sri Lanka. The Commissioners are required to investigate and inquire into the incidents described in the Schedule attached hereto and to make necessary recommendations regarding the following matters:-

- (a). to ascertain the facts and circumstances pertaining to each of the incidents relevant to the investigations and inquiries;
- (b). to identify persons and the nature of injuries suffered by them in the course of the incidents under inquiry;
- (c). the circumstances, that may have led or resulted in the incidents under inquiry;
- (d). to ascertain the identities, descriptions and backgrounds of persons who are responsible in any manner

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whatsoever for incidents under inquiry;

- (e). to examine the nature and efficacy of the investigations already conducted into the incidents relevant to the inquiry;
- (f). to recommend measures that should be taken in accordance with the Laws of Sri Lanka against those persons identified to be responsible for the incidents relevant to the inquiry;
- (g). to recommend measures that should be taken by the Government of Sri Lanka in order to prevent such incidents; and
- (h). to forward any other recommendations which the Commission considers relevant.

¶2. It has also been decided that the investigations and inquiries of the Commission of Inquiry should be conducted in such manner that it would enable one or more persons of international repute to constitute an International Independent Group of Eminent Persons (IIGEP) with a view to ensuring the transparency and impartiality of such inquiries and investigations and that such investigations and inquiries are conducted in accordance with basic international norms and standards.

¶3. The proposed mandate of the Group which will be set out in detail in the Letter of Invitation to be issued by H.E. the President, would cover, inter-alia, the following :-

In order to satisfy as to whether such inquiries are conducted in a transparent and impartial manner, in accordance with basic international norms and standards, a Member of the IIGEP may present such requirement to the attention of the Chairman of the Commission of Inquiry and the Attorney General.

Similarly, if any corrective action is required to be taken

by the Commission of Inquiry with a view to ensuring that inquiries by the Commission are conducted in a transparent and impartial manner and in accordance with basic international norms and standards, a member of the IIGEP may bring such matter to the attention of the Chairman of the Commission of Inquiry and the Attorney General.

The IIGEP is expected, upon completion of every 3 months period, to furnish an interim report to H.E. the President, containing their findings regarding the manner in which the Commission of Inquiry has conducted inquiries during the period under review.

Following the completion of inquiries by the Commission of Inquiry and prior to the expiry of 3 months, a Final Report will be submitted by the IIGEP to H.E. the President, containing the observations pertaining to the inquiries conducted by the Commission of Inquiry.

Following the issue of the Final Report of the Commission, the IIGEP will furnish, within 3 months, a report to H.E. the President containing their observations relating to the Final Report.

The IIGEP may furnish any information which they may receive from third parties and are considered directly relevant to the investigation and inquiry to the Commission and the Attorney General, for purposes of such investigation and inquiry.

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In the performance of their functions IIEGP would be permitted access to witnesses, documents and other relevant materials with the concurrence of the Commission.

The IIGEP will not share with, release to or publish any information received pursuant to their functions including the reports of the IIGEP, to any third party, including Sri Lankan and international media, without the written consent of the Attorney General.

14. The above mandate seeks to ensure that the Group functions in a pro-active manner and has every opportunity to interact with the Commission and the Attorney General and provides an opportunity to have access to witnesses and documents.

15. The time frame for the Commission would be initially 6 months and it will be extended at the request of the Commission for a further period for purposes of completing investigations and inquiries. However, in order to ensure practical flexibility, the proceedings of the Commission of Inquiry may be observed by Members of the IIGEP on a rotational basis and functioning either individually or as pairs of Observers, for a minimum period of 2 to 3 weeks at a stretch.

16. The Secretary to the Minister of Human Rights and Disaster Management will coordinate the stay of Members of the Group in Sri Lanka and the Inspector General of Police will, through his officers, provide necessary security.

17. Upon receiving a preliminary commitment to be considered for nomination, the formal letter of invitation will be extended by H.E. the President. In order to expeditiously commence the initiative for the establishment of the IIGEP, confirmation of commitment by 9th October 2006 would be much appreciated.

SCHEDULE

11. The killing of 17 aid workers of the international non-governmental organization 'Action Contre la Faim' and the alleged execution/disappearance of Muslim villagers in Muttur in early August 2006.

¶2. The execution at Welikanda of 13 persons on 29.05.2006.

¶3. The assassination of the Foreign Minister of Sri Lanka Hon.Lakshman Kadirgamar, P.C, on 12.08.2005.

¶4. The assassination of Hon.Joseph Pararajasingham, Member of Parliament on 25.12.2005.

¶5. The killing of 05 youths in Trincomalee on 02.01.2006.

¶6. The assassination of the Deputy Director-General of the Sri Lanka Peace Secretariat, Mr.Kethesh Loganathan, on 12.08.2006.

¶7. Death of 51 school children in Naddalamottankulam (Sencholai) on 14.08.2006.

¶8. Disappearance of Rev.Nihal Jim Brown of Philip Neri's Church at Allaipidi on 28.08.2006.

¶9. Killing of 05 fishermen and a civilian at Pesalai beach and at the Pesalai Church, respectively, on 17.06.2006.

¶10. Killing of a family of four in Division 10, Thomaspura,

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Vankalai in Mannar Police area on 08.06.2006.

¶11. Killing of 13 persons in Kayts Police area on 13.05.2006.

¶12. Killing of 10 Muslims at Radella in Pottuvil Police area on 17.09.2006.

¶13. Killing of 68 persons at Kebithigollewa on 15.06.2006.

¶14. Incident relating to the finding of 05 headless bodies in Avissawella on 29.04.2006.

END TEXT OF DOCUMENT
BLAKE